

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GREGORY KELLAM,

Plaintiff,

-against-

9:04-CV-1225
(LEK/GJD)

CARL HUNT, Superintendent
Ogdensburg Correctional Facility,
et al.,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on September 05, 2007 by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and N.D.N.Y. L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 49).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge DiBianco's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Additional grounds for dismissal of this matter are provided by Local Rule 41.2(b) of the

Northern District of New York which states that "Failure to notify the court of a change of address in accordance with L.R. 10.1(b) may result in the dismissal of any pending action." N.D.N.Y. L.R. 41.2(b). Local Rule 10.1(b)(2) states that "...pro se litigants must immediately notify the court of any change of address. The notice of change of address is to be filed with the clerk...." N.D.N.Y. L.R. 10.1(b)(2). Copies of the Report-Recommendation were mailed to the parties, with Petitioner's copy postmarked September 05, 2007. On September 10, 2007 the Report-Recommendation that had been mailed to Petitioner was returned to the Clerk of the Court as undeliverable as addressed. See Dkt. No. 50. The Clerk had no forwarding address from Petitioner, who has failed to notify the Court of his change of address. Thus, in accordance with the Local Rules, this action is dismissed.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 49) is **APPROVED** and **ADOPTED** in its **ENTIRETY** and it is further

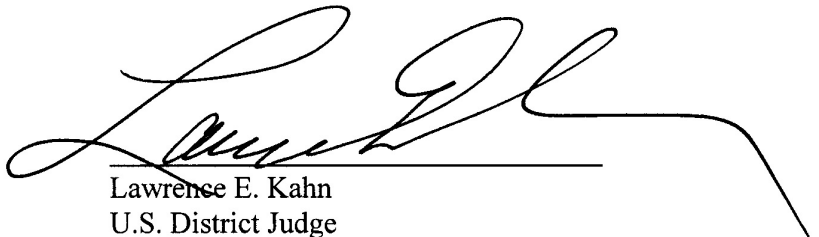
ORDERED, that the motion for summary judgement, docket number 46-1, is **GRANTED**; and it is further

ORDERED, that this complaint is **DISMISSED** in its **ENTIRETY**; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: September 20, 2007
Albany, New York


Lawrence E. Kahn
U.S. District Judge